

**PLACENTIA PLANNING COMMISSION
MINUTES OF THE REGULAR MEETING**

January 10, 2017

The regular meeting of the Placentia Planning Commission on January 10, 2017 was called to order at 6:31 p.m. in the Placentia Front Community Meeting Room, 401 East Chapman Avenue, Placentia, by Chair Schaefer.

ROLL CALL:

PRESENT: Commissioner Francine, Lee, Tomazic, Perez, Schaefer

ABSENT: Lee (excused), Schenck

OTHERS PRESENT: Carrie Raven, Assistant City Attorney
Joseph M. Lambert, Director of Development Services
Elsa Villagrana, Senior Administrative Assistant

PLEDGE OF ALLEGIANCE: Commissioner Tomazic

ORAL COMMUNICATIONS: None

CONSENT CALENDAR: None

PUBLIC HEARING:

1. **Applicant:** City of Placentia
Project Location: City-Wide

Zone Code Amendment (ZCA) 2016-02:

Consideration of a Zone Code Amendment whereby Chapter 23.46 of Title 23 (Zoning) of the Municipal Code shall be amended to expressly prohibit the development of Marijuana related uses.

Recommended Actions: It is recommended that the Planning Commission:

- a. Open the Public Hearing, Concerning Zone Code Amendment ZCA 2016-02, Receive the Staff Report and Consider All Public Testimony, and Close the Public Hearing; and
- b. Adopt Resolution PC-2017-01, A Resolution of the Planning Commission of the City of Placentia, recommending to the City Council Approval Of Zoning Code Amendment No. 2016-02 whereby Chapter 23.46 of Title 23 Shall Be Amended to Expressly Prohibit the Development of Marijuana

related Uses; and; and

- c. Recommend that the City Council find that adoption of Zoning Code Amendment No. 2016-02 is exempt from environmental review pursuant to the provisions of the California Environmental Quality Act (CEQA), Section 15061(b)(3) in that the proposed Code Amendments are not expected to create a negative impact on the physical environment and it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Chair Schaefer opened the Public Hearing at 6:33 p.m.

Director Lambert provided to the Commission a staff report on ZCA 2016-02. He noted that this is an amendment to the municipal code that would result in a prohibition of the development of Marijuana related land uses.

Mr. Lambert stated that on December 6, 2016, City Council adopted two urgency ordinances regarding marijuana related activities.

He noted that the first ordinance was Urgency Ordinance No. O-2016-08, which amended Chapter 8.42 of the Municipal Code (Title 8 – Health and Sanitation) regarding provisions that are not under the purview of the Commission. He commented that this prohibited marijuana related use and activity, for the purpose of promoting the health, safety, and general welfare of the residents, businesses, and visitors to the City. He stated that this prohibition does not apply to prohibit qualified patients and persons with identification cards to cultivate indoors, possess, and use marijuana for their own personal medical purposes to the degree such activity is authorized by state law.

Mr. Lambert summarized the second Urgency Ordinance No. O-2016-09 to the Commission. He stated that this urgency ordinance amended Chapter 23.46 of Title 23 (Zoning Code), to prohibit marijuana related land uses and activities including dispensing, cultivation, possession, manufacture, processing, storing, testing, labeling, relabeling, packaging, repackaging, transporting, delivery, distribution, provision, or sale, of marijuana, whether related to marijuana business, for personal use or otherwise.

Mr. Lambert commented that Urgency Ordinance No. O-2016-08 was in effect permanently and the Urgency Ordinance No. O-2016-09 is in effect for a total of 45 days.

Assistant City Attorney Raven provided the Commission a summary of the process for urgency ordinances related to municipal zoning codes.

Mr. Lambert stated that the urgency ordinances were adopted as a response to the passage of Proposition 64 (Adult Use of Marijuana Act (AUMA)) that allows the recreational use of marijuana in the state.

Mr. Lambert stated that City of Fullerton already has a ban in effect and that their code already prohibits medical and recreational use of marijuana.

Assistant City Attorney Raven stated her firm also represents the City of Fullerton and that as of now it is not in the future to regulate the use of marijuana.

Mr. Lambert commented that other cities in Orange County adopted urgency ordinances to ban recreational land uses related to marijuana including the cities of Huntington Beach, Orange, Anaheim, and La Habra.

Assistant City Attorney Raven noted that as part of the AUMA, the City's ban will not prohibit possession of up to 25.8 grams of marijuana, transportation through the City on city streets, and the indoor cultivation of no more than 6 plants per dwelling. She also added that AUMA prohibits the smoking or use of marijuana in public spaces.

Commissioner Francine asked how the AUMA applies to other uses of marijuana such as possessing or ingesting.

Assistant City Attorney Raven stated that possession of up to 25.8 grams of marijuana is allowed. She stated a state agency will be creating specific regulations regarding recreational use of marijuana until January 2018.

Chair Schaefer expressed confusion regarding what the ordinance is banning and what it would allow.

Assistant City Attorney Raven stated the City is allowed to regulate marijuana land uses. She further stated that the state is solely controlling the possession, transportation and indoor cultivation, and therefore, cities can control everything but those three items regarding recreational marijuana.

Commissioner Francine asked if a business transporting marijuana would be able to reside in or make stops in the City.

Assistant City Attorney Raven stated that a business transporting marijuana cannot reside or make stops in the City.

Commissioner Francine stated that means a Placentia resident cannot receive a delivery in the City.

Assistant City Attorney Raven stated that it is correct and further elaborated on the proposed ordinance.

Chair Schaefer commented that she wants to ensure that the Commission is not recommending a ban that would conflict with rights that were granted as part of the state law that was passed.

Chair Schaefer recommended that the City's ordinance needs to be amended to provide

greater clarification regarding what is being banned and what is allowed under AUMA.

Commissioner Tomazic inquired if the Planning Commission is being asked to regulate personal consumption.

Assistant City Attorney Raven clarified that the Planning Commission is not being asked to regulate personal consumption since that is being regulated by the State.

Commissioner Francine asked if the City would have to revise this ordinance if the Federal Government proposes to legalize the use of marijuana.

Assistant City Attorney Raven stated that currently marijuana is not legal under Federal law.

Chair Schaefer asked if other cities are taking other different actions.

Assistant City Attorney Raven stated for example, California City, decided to allow and regulate the outdoor and indoor cultivation of marijuana.

Chair Schaefer asked if the City will be losing revenue as result of this ordinance.

She stated she would like to know how much revenue the City could stand to lose. She noted that she would like information to be presented straight forward in a manneter that residents can easily understand.

Assistant City Attorney Raven that through an excise tax on marijuana, the State will be setting aside money left over after all expenses related to the regulation of marijuana are paid for grants may be available only to Cities that allow recreational use.

Chair Schaefer stated that this means there is no direct revenue impact from AUMA.

Assistant City Attorney Raven stated that she is correct.

Chair Schaefer inquired if cities could tax the revenue from dispensaries at a local level.

Assistant City Attorney Raven stated that cities would have to pass a sales tax to be able do that.

Vice Chair Perez stated he is concerned about the confusion surrounding this ordinance and that the average person will not take the time to inform themselves.

Commissioner Francine expressed concerns about banning the delivery of marijuana products in the City, especially from those suffering from terminally-ill diseases.

A discussion between the Commission and Assistant City Attorney Raven ensued regarding the different scenarios of the delivery of marijuana.

Chair Schaefer closed the Public Hearing at 7:14 p.m.

Commissioner Tomazic suggested a bullet point section clarifying the implications of the ordinance should be included in staff's presentation to City Council.

Director Lambert stated with the Commission's recommendation they can take to City Council.

Motion by Schaefer, seconded by Perez carried on a (5-0) vote to approve the recommendation actions with direction given to provide a more comprehensive and comparative view of the ordinance and to recommend to City Council that they discuss the topic of allowing delivery to qualified patients at City Council.

Ayes: Francine, Tomazic, Perez, Schaefer

Noes:

Abstain:

Absent: Lee, Schenck,

OLD BUSINESS: None

NEW BUSINESS: None

DEVELOPMENT REPORT: None

DIRECTOR'S REPORT:

Director Lambert informed the Commission that the City has hired a new Senior Planner and he will be starting on January 17, 2017.

Chair Schaefer asked if City Council is planning to hold meetings on Tuesdays when Planning Commission Meetings are scheduled.

Director Lambert stated that recently there have been special meetings and the holiday closure altered some of the dates scheduled for City Council resulting in conflicts.

ADJOURNMENT

Chair Schaefer adjourned the Planning Commission Regular Meeting at 7:23 p.m. to a regular meeting on Tuesday, February 14, 2017 at 6:30 p.m. in the Placentia City Council Chambers at 401 East Chapman Avenue, Placentia.

Submitted by,



Joseph M. Lambert,
Secretary to the Planning Commission